

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP

Charles K. Verhoeven (Bar No. 170151)

2 charlesverhoeven@quinnemanuel.com

David A. Perlson (Bar No. 209502)

3 davidperlson@quinnemanuel.com

Melissa Baily (Bar No. 237649)

4 melissabaily@quinnemanuel.com

John Neukom (Bar No. 275887)

5 johnneukom@quinnemanuel.com

Jordan Jaffe (Bar No. 254886)

6 jordanjaffe@quinnemanuel.com

50 California Street, 22<sup>nd</sup> Floor

7 San Francisco, California 94111-4788

Telephone: (415) 875-6600

8 Facsimile: (415) 875-6700

9 Attorneys for WAYMO LLC

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 WAYMO LLC,

13 Plaintiff,

14 vs.

15 UBER TECHNOLOGIES, INC.;  
16 OTTOMOTTO LLC; OTTO TRUCKING  
LLC,

17 Defendants.

CASE NO. 3:17-cv-00939-WHA

**PLAINTIFF WAYMO LLC'S  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL PORTIONS OF ITS  
OFFER OF PROOF REGARDING  
DEFENDANTS' TRADE SECRET  
MISAPPROPRIATION**

Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff Waymo LLC (“Waymo”) respectfully requests to file under seal portions of Waymo’s Offer of Proof Regarding Defendants’ Trade Secret Misappropriation (“Waymo’s Offer of Proof”).

#### **I. LEGAL STANDARD**

Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.* In the context of non-dispositive motions, materials may be sealed so long as the party seeking sealing makes a “particularized showing” under the “good cause” standard of Federal Rule of Civil Procedure 26(c). *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331 F.3d 1122, 1135, 1138 (9th Cir. 2003)).

#### **II. THE COURT SHOULD SEAL WAYMO’S CONFIDENTIAL INFORMATION**

The Court should seal the portions of Waymo’s Offer of Proof to be marked in a revised sealed version to be filed tomorrow. Given the sensitivity of this material, Waymo is currently filing the entire document under seal but intends to provide a redacted version tomorrow. Waymo seeks to file this information under seal because it discloses Waymo’s trade secrets. *See* Declaration of Felipe Corredor (“Corredor Decl.”) ¶¶ 3-5. Waymo’s Offer of Proof also contains information Defendants and/or third party Velodyne have designated confidential and/or highly confidential. *Id.* ¶ 6. Courts have determined that trade secret information merits sealing. *Music Grp. Macao Commercial Offshore Ltd. v. Foote*, No. 14-cv-03078, 2015 WL 3993147, at \*1 (N.D. Cal. June 30, 2015) (quoting *Kamakana*, 447 F.3d at 1179); *see also Brocade Commc’ns Sys., Inc. v. A10 Networks, Inc.*, No. C 10-3428, 2013 WL 211115, at \*1, \*3 (N.D. Cal. Jan. 17, 2013) (granting request to seal document that “consists entirely of descriptions of Brocade’s trade secrets”). Confidential business information that, if released, may “harm a litigant’s competitive standing” also merits sealing. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598-99 (1978). Waymo seeks to seal confidential business information and trade secret information that fit squarely within these categories. Corredor Decl. ¶¶ 3-5. Waymo

1 maintains this information as a trade secret (*see* Dkt. 25-31) and ensures the information remains  
 2 secret with strict secrecy and security protocols (*see* Dkt. 25-47; Dkt. 25-49.). *See* Corredor Decl. ¶ 4.  
 3 Waymo has narrowly tailored its requests to only information meriting sealing. *Id.* ¶ 5. In fact, both  
 4 *Music Group* and *Brocade* found the confidential information at issue in those cases met the  
 5 heightened “compelling reasons” standard for sealing. *Music Grp.*, 2015 WL 3993147, at \*1;  
 6 *Brocade*, 2013 WL 211115, at \*1, \*3. The information that Waymo seeks to seal, therefore, also  
 7 meets this heightened standard. The disclosure of Waymo’s trade secret and confidential business  
 8 information would harm Waymo. Corredor Decl. ¶ 4. Moreover, the scope of information that  
 9 Waymo is seeking to seal is consistent with other administrative motions to seal that have already  
 10 been granted by the Court in this case. (*See, e.g.*, Dkt. 416, 414, 406, 393, 392.) Thus, the Court  
 11 should grant Waymo’s administrative motion to seal.

### 12 **III. CONCLUSION**

13 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the  
 14 above listed documents accompany this Administrative Motion. For the foregoing reasons,  
 15 Waymo respectfully requests that the Court grant Waymo’s administrative motion to file under  
 16 seal.

18 DATED: August 24, 2017

QUINN EMANUEL URQUHART & SULLIVAN,  
 LLP

20 By /s/ Charles Verhoeven

Charles Verhoeven  
 Attorneys for WAYMO LLC